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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,119	09/12/2003	Robert F. Romanet	85774AEK	6451

7590 09/03/2004

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EXAMINER

LE, HOA VAN

ART UNIT	PAPER NUMBER
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1752

DATE MAILED: 09/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

### Application No.

10/661,119

### Applicant(s)

ROMANET ET AL.

### Examiner

Hoa V. Le

### Art Unit

1752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-19 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_.

This application is up for consideration.

A. In view of the complexity of the issues in the claimed inventions, this Office action is made.

B.1. Claims 1-16 are generic to a plurality of disclosed patentably distinct species comprising many possible chemical structures of the general 1H-pyrazolo[1,5-b]{1,2,4}triazole.. as broadly disclosed in the art. Applicant is required under 35 U.S.C. 121 to elect a single disclosed chemical structure species for an initiation of a search, even though this requirement is traversed. Applicants are requested and required to precisely disclose the elected chemical structure with (1) all bonding connections between and among all chemical ingredients and (2) listing of all chemical elements and their positions in the elected chemical structure for a precise consideration and search. No consideration or search will be made until these request and requirement are properly and fully met. It is now notified for the record.

2. Claim 17 is generic to a plurality of disclosed patentably distinct species comprising many possible structures of the general formula 1 as broadly disclosed in the art. Applicant is required under 35 U.S.C. 121 to elect a single disclosed chemical structure species for an initiation of a search, even though this requirement is traversed. Applicants are requested and required to precisely disclose the elected chemical structure with (1) all bonding connections between and among all chemical ingredients and (2) listing of all chemical elements and their positions in the elected chemical structure for a precise consideration and search. No

consideration or search will be made until these request and requirement are properly and fully met. It is now notified for the record.

3. Claim 18 is generic to a plurality of disclosed patentably distinct species comprising many possible structures of the general reaction product of coupler and paraphenylenediamine as broadly disclosed in the art. Applicant is required under 35 U.S.C. 121 to elect a single disclosed chemical structure species for an initiation of a search, even though this requirement is traversed. Applicants are requested and required to precisely disclose the elected chemical structure with (1) all bonding connections between and among all chemical ingredients and (2) listing of all chemical elements and their positions in the elected chemical structure for a precise consideration and search. No consideration or search will be made until these request and requirement are properly and fully met. It is now notified for the record.

4. Claims 18-19 are generic to a plurality of disclosed patentably distinct species comprising several para-phenylenediamine as broadly disclosed in the art. Applicant is required under 35 U.S.C. 121 to elect a single disclosed chemical species for an initiation of a search, even though this requirement is traversed.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

C. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-6 with independent claim 1 being broadest, drawn to a photographic element, classified in class 430 at least subclass 558.
- II. Claim 17, drawn to a dye precursor, classified in class 534 at least 751. If applicants elected this invention, the application may be transferred.
- III. Claims 18-19, drawn to a dye, classified in class 564, at least subclass 305. If applicants elected this invention, the application may be transferred.

The inventions of Group I, Group II and III are all related to the materials but have the patentably different and distinct chemical ingredient (by it self or ingredients in an element) and status in the art and require separate consideration and searches in the art and can be supported the separate patents as divided by applicants and have no evidence on the record that is not required the separate consideration and search since they are the obvious variants because the prior art being applied to one of them would be sufficient against all inventions, restriction for examination purposes as indicated is proper. Applicant should show or provide convincing evidence to the contrary. In the absence of convincing evidence, the restriction would not be removed.

Because these inventions are distinct for the reasons given above and have acquired the separate consideration and searches in the art and can be supported the separate patents as divided by applicants and have no evidence of the record that are not required the separate consideration and search since they are the obvious variants because the prior art being applied to one of them would be sufficient against all inventions, restriction for examination purposes as indicated is proper. Applicant should show or

provide a convincing evidence to the contrary. In the absence of convincing evidence, the restriction would not be removed.

D. An additional consideration or search for more than one invention is burdensome, lacks of focus on many and all issues in the claimed inventions and dilutes patentability of many and all issues in many inventions than those in one. Applicant should show or provide a convincing evidence to the contrary. In the absence of convincing evidence, the restriction would not be removed.

E. Applicant is advised that the reply to this requirement to be complete must include an election as set forth on the record to be examined even though the requirement be traversed (37 CFR 1.143).

F. Other issues have not been considered until a proper election is made and resolved all of the requirements as clearly pointed out and set forth above.

G. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hoa V. Le whose telephone number is 571-272-1332.

The examiner can normally be reached from 6:30 AM to 4:00 PM on Monday through Thursday and about the same time of most Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cynthia Kelly can be reached on 571-272-1526.

Applicants may file a paper by (1) fax with a central facsimile receiving number 703-872-9306,

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hoa V. Le  
Primary Examiner  
Art Unit 1752

HVL  
01 September 2004

HOA VAN LE  
PRIMARY EXAMINER  
